

The Modern Slavery Act 2015 – supply chain scrutiny

The Modern Slavery Act 2015 Act requires charities with an annual turnover of more than £36 million (including subsidiaries) to publish an annual slavery and human trafficking statement.

The aim of the Act is to require that large organisations open their supply chains up to public scrutiny, ensuring that they make a conscious effort to keep free from slavery. Unlike similar legislation in the US, the Act does not discriminate between different sectors of the economy. It will therefore apply to organisations according to their size, regardless of their operations and regardless of their charitable status.

Who must comply with the Act?

An organisation must comply with section 54 of the Act if it fulfils the following requirements:

- it is a corporate body or partnership;
- it carries out a trade or profession (at least partly) in the UK;
- it supplies goods or services; and
- it has an annual turnover of at least £36 million.

The turnover of an organisation's subsidiaries is also taken into account in relation to the turnover threshold. For example, a charitable company with a turnover of £30 million which has a subsidiary trading company with a turnover of £7 million would meet the threshold.

How to comply with the Act

A qualifying organisation must publish a slavery and human trafficking statement on its website each financial year. If the organisation has no website, it must provide a copy of the statement to anyone who requests it, in writing, and within 30 days.

There is no prescribed form for the statement, but there is the need for high-level approval within the organisation. In the case of a corporate body, the statement must be approved by the board and signed by a director.

The statement must include either:

- 1) the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place; or
- 2) confirmation that the organisation has taken no such steps.

The Act gives several examples of relevant information which may be included in such a statement. In particular, the following points are referred to:

- the structure of the organisation and its supply chains
- its policies in relation to slavery and human trafficking

- any relevant due diligence processes followed by the organisation
- any relevant training given to staff
- the areas of operations where there is a risk slavery and human trafficking may take place and how this risk is assessed and managed
- how the effectiveness of the organisation is measured with regard to ensuring slavery and human trafficking is not taking place

The Secretary of State may publish further guidance with regard to annual statements in due course.

Enforcement

If an organisation does not provide a statement, the Secretary of State may bring proceedings to the High Court for an injunction to enforce the duty to prepare a statement.

Practical issues

The risk of slavery and human trafficking taking place will vary greatly between different organisations depending on their size and the nature of their operations. Therefore the level of detail and content required for the annual statement will vary between organisations in equal measure.

For many organisations, there may not be a particularly obvious or overt risk of slavery or human trafficking. However, even where this is the case, there is a reputational risk associated with stating on your website that the organisation has taken no steps to prevent slavery and human trafficking. On this basis, trustees may feel that some action is justified and this could then be referred to in the annual statement.

At the very least, trustees should consider offering a description of the organisation's business model and supply chains and the corresponding risk associated with slavery and human trafficking. Any risk which is identified should be appropriately managed through the organisation's processes.

Smaller organisations, although under no legal duty to comply with the requirements, may nevertheless want to consider reviewing their business model and processes in an effort to comply with what is likely to be regarded as best practice.

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